

DIVISION OF AGRICULTURAL  
ENVIRONMENTAL SERVICES  
BUREAU OF LICENSING AND ENFORCEMENT  
(850) 617-7997  
(850) 617-7850  
(850) 617-7967 FAX



THE CONNER BUILDING, NO. 8  
3125 CONNER BOULEVARD  
TALLAHASSEE, FLORIDA 32399-1650

**FLORIDA DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES**  
COMMISSIONER ADAM H. PUTNAM

**CERTIFIED MAIL NO: 7013 0600 0000 6799 0501**  
**RETURN RECEIPT REQUESTED**

December 1, 2015

Thomas R. Summersill, Inc  
Attn: Mr. Thomas J. Summersill, Registered Agent  
P.O. Box 70  
Belle Glade, Florida 33430-0070

And,

Mr. Jeffery T. Summersill (Lic # CM11044)  
c/o Thomas R. Summersill, Inc  
P.O. Box 70  
Belle Glade, Florida 33430-0070

**RE: ADMINISTRATIVE COMPLAINT; ADMINISTRATIVE FINE**

**Administrative Complaint No.: A94137**

**File Name: Thomas R. Summersill, Inc** **File No.: 114-223-4092 CA**  
**Respondents: Thomas R. Summersill, Inc and Mr. Jeffrey T. Summersill (Lic # CM11044)**

**INVESTIGATION**

On October 16, 2014, an investigation was initiated by the Department of Agriculture and Consumer Services ("Department"), Bureau of Inspection and Incident Response, regarding a report of pesticide exposure from Ms. Jean Hammill, Safety Officer of Duda Farm Fresh Foods ("Duda Farm"), Belle Glade. In the report, Ms. Hammill stated that twelve members of an agricultural work crew had been transported to the hospital, following an aerial exposure of Baythroid.

Information obtained, during the investigation indicated, that Duda Farm contracted your firm to conduct aerial pesticide applications on their property.

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During the investigation, the Department documented the use of the restricted-use pesticide, as defined by 487. 021(58), Florida Statutes (F.S.), "**Baythroid XL**", EPA Reg. No. **264-840**, Sample Number **102214 4092 0101**.

Respondent, Jeff Summersill, Vice President of Thomas R. Summersill, Inc., has a Commercial Applicator License (Lic # CM11044) with the Department, which authorizes him to purchase, use and supervise the use of restricted-use pesticides by other employees. Mr. Summersill, as part of his duties as Vice President, directs the application of restricted use pesticides.

The Department has identified the following violation of the Florida Pesticide Law, Chapter 487, F. S.:

On October 16, 2014, from 9:00 AM to 9:45 AM, Respondent Jeff Summersill made an aerial application of **Baythroid XL** to approximately one hundred-twelve acres of radish, at "State Unit D Field," Blocks # 3 to # 11, for control of cutworms.

Immediately prior to the application, workers were transplanting celery, moving in a west to east direction, in the State Unit G Field. Mr. Perry Yance, Farm Manager for Duda Farms, stated he observed that as Respondent Jeff Summersill initiated his application, he appeared to have created a buffer between the workers and the treatment site. Further, Mr. Yance stated that although during the aerial application Mr. Summersill appeared to have disengaged his sprayers while making passes proximal to the worksite, he and the workers were exposed to the pesticide and were subsequently transported to Lakeside Medical Center Emergency room for medical evaluation.

During the investigation, the Department collected soil samples, from various locations within State Unit G Field, the location of the work crew, to test for the presence of the formulated ingredients of **Baythroid XL**. The enclosed Pesticide Analysis Reports regarding those samples indicated that active ingredients of **Baythroid XL** were not detected. However, levels of Azoxystrobin, Chlorantraniliprole, Clothianidin, Dicamba, Imidacloprid, and Pyraclostobin were detected. The presence of the aforementioned active ingredients is consistent with pesticide use on agricultural property.

However, subsequent to the initial investigation, the Florida Department of Health ("FDOH") conducted an independent investigation regarding the alleged pesticide exposure. The results of the November 16, 2015 report indicated that thirteen people met the FDOH case definition for acute pesticide-related illness and injury.

The **Baythroid XL** label contains the following language, in part:

**"DIRECTIONS FOR USE Restricted Use Pesticide:**

Do not apply this product in a way that will contact workers or other persons, either directly or through drift."

Therefore, in violation of Section 487.031(13)(e), Florida Statutes (F.S.), which state that is unlawful to apply any pesticide directly to or in a manner to cause drift onto any person or area not intended to receive the pesticide, Respondents did not comply with this label direction.

Use of a pesticide in a manner inconsistent with its label is unlawful under Section 487.031(10), F.S. Respondents are therefore notified to take all necessary actions to assure compliance with the requirements of Chapter 487, Florida Statutes.

**ADMINISTRATIVE FINE**

The Department would agree to settle this violation at this time for an administrative fine of **One Thousand Eight Hundred (\$1,800.00)**. In order to conclude this matter, please remit your payment of the administrative fine in the attached return envelope. Your check should be made payable to the Department of Agriculture and Consumer Services. Receipt of payment of this amount will conclude this matter.

**ADMINISTRATIVE HEARING AVAILABLE**

If you wish to contest the Department's findings, you have the right to request an administrative hearing to be conducted in accordance with Sections 120.569 and 120.57, Florida Statutes, to be represented by counsel or other qualified representative, to present evidence and argument, to call and cross-examine witnesses, and to have subpoena and subpoena duces tecum issued on your behalf if a hearing is requested. Your request for hearing must contain your name and address for purposes of service, a statement requesting either a hearing involving disputed issues of material fact or a hearing not involving disputed issues of material fact, and a reference to this administrative complaint. Please be advised that by requesting a hearing, the Department's current level of enforcement action will be withdrawn and you may receive a more severe penalty.

**DEADLINE TO REQUEST AN ADMINISTRATIVE HEARING**

Your request for a hearing must be received within twenty-one (21) days of the receipt of this letter.



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Mr. Jeffery T. Summersill (Lic # CM11044)  
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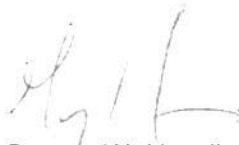
#### **FAILURE TO SETTLE OR REQUEST AN ADMINISTRATIVE HEARING**

If you fail to remit payment or fail to request an administrative hearing within the twenty-one (21) day deadline, you waive the right to a hearing and the Department may enter a Final Order imposing up to the maximum penalties as authorized by Florida law.

#### **FURTHER INFORMATION**

If you have any questions or wish to discuss this matter, please contact this office at (850) 617-7880.

Sincerely,



George W. Hayslip, Environmental Administrator  
Pesticide Enforcement Section

GWH/ca

Enclosure

cc: Mrs. Patricia A. Lucas  
Dr. Davis H. Daiker  
Mr. Robert E. Guerra  
Mr. Luis E. Amador  
Ms. Jean Hammil - Duda Farm Fresh Foods  
Mr. José Ojeda - Martinez & Sons Trucking, LLC  
Dr. Prakash Mulay - Florida Department of Health

File Name: Thomas R. Summersill, Inc

File No.: 114-223-4092 CA

Filed with the Agency Clerk



ADAM H. PUTNAM  
COMMISSIONER

Florida Department of Agriculture and Consumer Services  
Division of Administration

**ADMINISTRATIVE COMPLAINT;  
ADMINISTRATIVE FINE PAYMENT FORM**

Date: December 1, 2015

Remit Online at:  
[www.FreshFromFlorida.com](http://www.FreshFromFlorida.com)

- or -

Check or Money Order Payable to FDACS  
and remit to:

FDACS  
P.O. Box 6710  
Tallahassee, FL 32314-6710

**Your remittance MUST be returned with this Payment Form  
in the enclosed envelope within 10 days to the above address.**

RE: File Name: Thomas R. Summersill, Inc  
File Number: 114-223-4092 CA  
Administrative Complaint No: A94137  
Date of Notice: November 30, 2015

Enclosed is payment of the fine assessed for violation of Section 487, Florida Statutes.

Amount of Fine: \$ 1,800.00  
Penalty Amt. If Applicable: N/A  
Investigated Cost If Applicable: N/A  
Total Due to the Department: \$ 1,800.00

Make check(s) payable to "Florida Department of Agriculture & Consumer Services."

Thomas R. Summersill, Inc  
Name/Firm Name to whom fine is assessed

P.O. Box 70 Belle Glade, Florida 33430-0070  
Address, City, State and Zip

Org. Code: **42130802046-A2**  
EO: **A2**  
Object Code: **012052**

